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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION I  
ONE CONGRESS STREET SUITE 1100  
BOSTON, MASSACHUSETTS 02114-2023

November 13, 2008

Paul Craffey  
Massachusetts Department of  
Environmental Protection  
One Winter Street  
Boston, MA 02108

RE: New Bedford Harbor State Enhanced Remedy

Dear Paul:

Enclosed please find EPA's Determination pursuant to section 761.61(c) of TSCA for the Phase III State Enhanced Remedy work as described in the April 2007 CAD Cell # 2 Pre-Design Work Plan and Section 01135 of the November 2008 Phase III Contract Specifications.

Very truly yours,

A handwritten signature in cursive script that reads "Cynthia Catri".

Cynthia Catri  
Senior Enforcement Counsel

Enc.

cc: Dave Dickerson, EPA  
Kim Tisa, EPA



SDMS DocID

517923

## Appendix A - TSCA 761.61(c) Determination

Consistent with Section 761.61(c) of the Toxic Substances Control Act (TSCA) I have reviewed the pertinent documents regarding the state enhanced remedy for the New Bedford Harbor site and considered the proposed confined aquatic disposal cells (CAD cells) for the dredged PCB-contaminated sediments set out in the draft April 2007 CAD Cell #2 Pre-Design Work Plan and Section 01135 of the November 2008 Phase III Contract Specifications for the New Bedford Harbor navigational dredging. I have also reviewed a map of the location of the CAD cells which is attached hereto as Attachment A. As required by that section of TSCA, I have determined that the proposed method of disposing of the PCB-contaminated sediments in a CAD cell(s) north of Route 6 in New Bedford Harbor does not pose an unreasonable risk to human health or the environment as long as the following conditions are met:

1. Compliance with the Work Plan's and Contract Specification's water quality and turbidity performance standards is maintained during all dredging and disposal activities;
2. Any dredged material that accidentally comes to be located outside of CAD cell #1 or #2 during disposal (e.g., "missing" the cell during placement or from "surge" related overflow during placement) is removed and placed into the CAD cell(s);
3. The CAD cells are capped with clean, suitable material of sufficient thickness to isolate the PCB-contaminated sediments physically, chemically and biologically from the surrounding benthic environment. The placement of these underwater caps shall be timed such that sufficient consolidation of the underlying dredged material has taken place to physically support the cap material. A bathymetric survey shall be performed upon completion of the cap placement;
4. The CAD cell caps are monitored to demonstrate their physical, chemical and biological quality. This monitoring shall include bathymetric surveys, chemical sampling and sediment camera work (as an alternative to benthic faunal enumeration). The frequency of this cap monitoring shall be at least annually for the first three years after cap placement, unless otherwise directed by EPA New England. After three years, the Commonwealth may propose a revised schedule for monitoring;
5. An annual report summarizing the CAD cell cap placement or CAD cell cap monitoring shall be submitted to EPA New England beginning with placement of the cap material. This report shall include a summary discussion of all activities associated with the cap placement or cap monitoring, and shall include if needed any recommendations for corrective action to maintain the physical, chemical or biological quality of the caps. A draft and final version of each such annual report shall be submitted, with the final version incorporating all comments received from EPA New England.
6. Corrective actions recommended in the annual reports, or alternatively, those required by EPA New England based on information in the annual reports, shall be implemented in a timely manner. Corrective actions could include, but not be limited to, installation of additional controls or excavation and disposal of dredged PCB-contaminated sediments from the CAD cells

if information indicates that the CAD cells are not effective in isolating and/or controlling migration of PCBs from the CAD cells into the harbor.

7. The City of New Bedford/Harbor Development Commission shall coordinate with the Department of Commerce through the National Oceanic and Atmospheric Administration, National Ocean Service and the U.S. Coast Guard to ensure that the as-built locations of the CAD cells become included in all future nautical charts of New Bedford Harbor.

This determination is based on the information contained in the April 2007 Work Plan and the November 2008 Contract Specifications. Any proposed change(s) to the Work Plan's or Contract Specifications shall be provided to EPA. Upon review, EPA may find it necessary to revised this determination or issue a new TSCA determination based on the proposed change(s).



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James T. Owens, III  
Director, Office of Site Remediation and Restoration

11-12-08

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Date

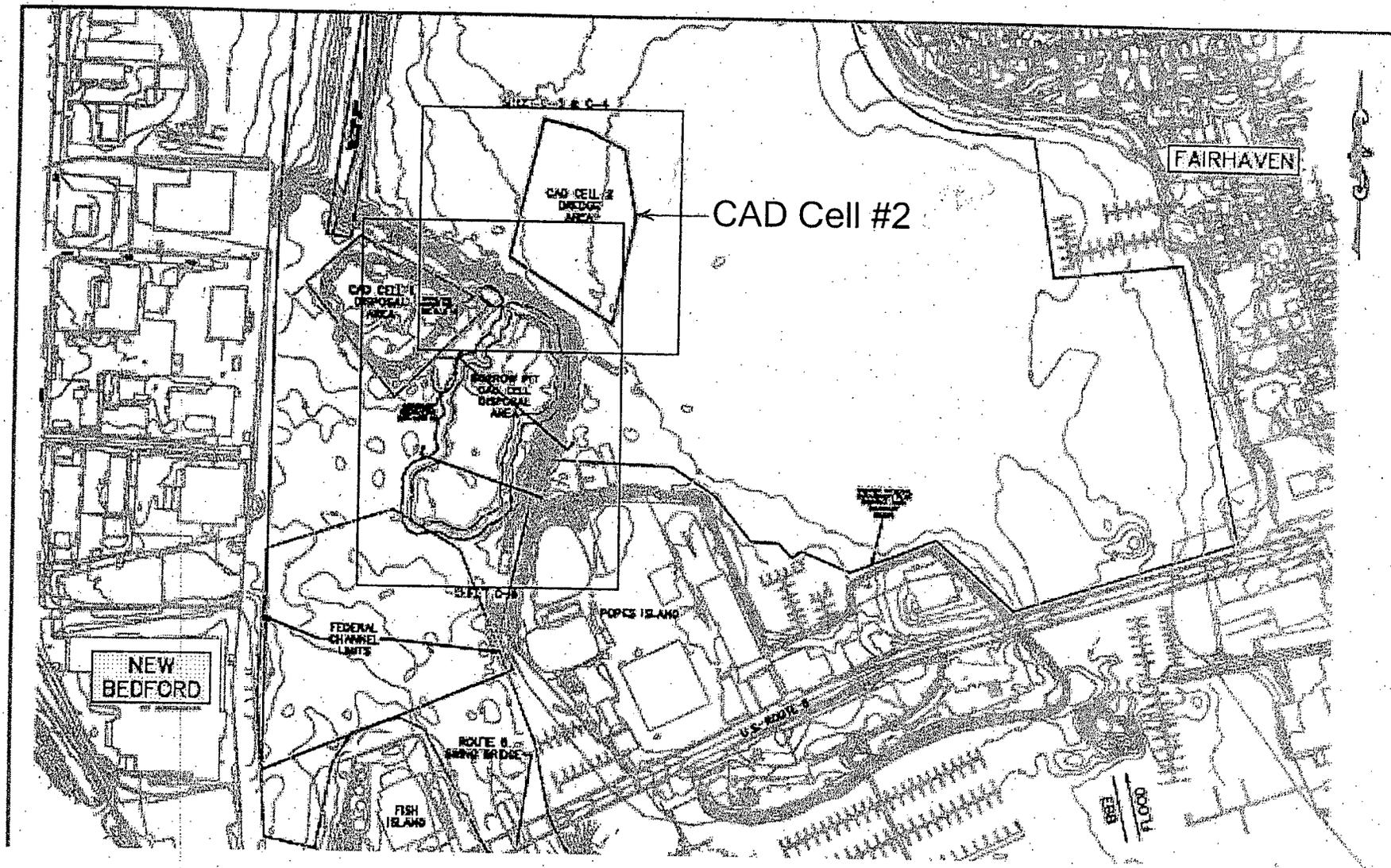


Figure 1: CAD #2 Location